



SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-94518; File No. SR-NYSEArca-2021-65]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to List and Trade Shares of the Sprott ESG Gold ETF under NYSE Arca Rule 8.201-E (Commodity-Based Trust Shares)

March 25, 2022.

I. Introduction

On July 19, 2021, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to list and trade shares (“Shares”) of the Sprott ESG Gold ETF (“Trust”) under NYSE Arca Rule 8.201-E (Commodity-Based Trust Shares). The proposed rule change was published for comment in the Federal Register on July 30, 2021.³ On September 2, 2021, pursuant to Section 19(b)(2) of the Act,⁴ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.⁵ On October 27, 2021, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act⁶ to determine whether to approve or disapprove the proposed rule change.⁷ On January 19, 2022, pursuant to Section

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 92506 (July 26, 2021), 86 FR 41109.

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 92867, 86 FR 50568 (September 9, 2021).

⁶ 15 U.S.C. 78s(b)(2)(B).

⁷ See Securities Exchange Act Release No. 93434, 86 FR 60516 (November 2, 2021).

19(b)(2) of the Act,⁸ the Commission designated a longer period within which to issue an order approving or disapproving the proposed rule change.⁹ On February 25, 2022, the Exchange filed Amendment No. 1 to the proposed rule change.¹⁰ This Amendment No. 1, set forth in Item II below, replaces SR-NYSE Arca-2021-65 as originally filed and supersedes such filing in its entirety. The Commission has received no comment letters on the proposal. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons, and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

⁸ 15 U.S.C. 78s(b)(2).

⁹ See Securities Exchange Act Release No. 94003, 87 FR 3865 (January 25, 2022). The Commission designated March 27, 2022, as the date by which the Commission shall either approve or disapprove the proposed rule change.

¹⁰ Amendment No. 1 is available on the Commission's website at <https://www.sec.gov/comments/sr-nysearca-2021-65/srnysearca202165-20117903-270825.pdf>. Among other things, Amendment No. 1 to the proposed rule change provided greater detail with respect to characteristics of unallocated gold, Sprott ESG Approved Gold (as defined herein), and ESG Criteria (as defined herein), as well as valuation of the Trust's (as defined herein) gold. Amendment No. 1 explained how Sprott ESG Approved Gold will be created for the Trust, as well as the process of the exchange or conversion of the types of gold held by the Trust, and how this occurs during creations and redemptions. Amendment No. 1 also represented that there is no separate market for Sprott ESG Approved Gold, there is no industry standard for ESG factors that apply to gold production, and the value of the gold held by the Trust, whether allocated Sprott ESG Approved Gold or unallocated gold, will be determined by the LBMA Gold Price PM (as defined herein). Amendment No. 1 made additional representations, including regarding the Information Bulletin. Finally, Amendment No. 1 provided clarifications and technical edits to the proposed rule change.

1. Purpose

The Exchange proposes to list and trade shares (“Shares”) of the Sprott ESG Gold ETF (the “Trust”), under NYSE Arca Rule 8.201-E.¹¹ Under NYSE Arca Rule 8.201-E, the Exchange may propose to list and/or trade Commodity-Based Trust Shares pursuant to unlisted trading privileges (“UTP”).¹²

The Trust will not be registered as an investment company under the Investment Company Act of 1940, as amended,¹³ and is not required to register under such act. The Trust is not a commodity pool for purposes of the Commodity Exchange Act, as amended.¹⁴

The Sponsor of the Trust is Sprott Asset Management LP, a Canadian limited partnership. The Bank of New York Mellon serves as the Trust’s administrator (the “Administrator”) and transfer agent (the “Transfer Agent”). The Delaware Trust Company is the

¹¹ On February 11, 2021, the Trust submitted to the Commission its draft registration statement on Form S-1 under the Securities Act of 1933 (15 U.S.C. 77a) (“Securities Act”) and on July 1, 2021, the Trust submitted to the Commission the most recent amendment to its draft registration statement (collectively, the “Registration Statement”). The Jumpstart Our Business Startups Act, enacted on April 5, 2012, added Section 6(e) to the Securities Act. Section 6(e) of the Securities Act provides that an “emerging growth company” may confidentially submit to the Commission a draft registration statement for confidential, non-public review by the Commission staff prior to public filing, provided that the initial confidential submission and all amendments thereto shall be publicly filed not later than 21 days before the date on which the issuer conducts a road show, as such term is defined in Securities Act Rule 433(h)(4). An emerging growth company is defined in Section 2(a)(19) of the Securities Act as an issuer with less than \$1,070,000,000 total annual gross revenues during its most recently completed fiscal year. The Trust meets the definition of an emerging growth company and consequently has submitted its Form S-1 Registration Statement on a confidential basis with the Commission. The Registration Statement is not yet effective and the Shares will not trade on the Exchange until such time that the Registration Statement is effective.

¹² Commodity-Based Trust Shares are securities issued by a trust that represent investors’ discrete identifiable and undivided beneficial ownership interest in the commodities deposited into the Trust.

¹³ 15 U.S.C. 80a-1.

¹⁴ 17 U.S.C. 1.

trustee of the Trust (the “Trustee”).¹⁵ The Royal Canadian Mint is the custodian of the Trust’s gold (the “Gold Custodian” or “Mint”) and also produces Sprott ESG Approved Gold (as defined below) in bar form for the Trust.¹⁶ The Bank of New York Mellon will also serve as the Trust’s cash custodian (the “Cash Custodian”) pursuant to the terms of the agreement between the Trust and the Cash Custodian. In its capacity as cash custodian, the Cash Custodian will maintain a custodial account that holds cash for the benefit of the Trust for the purpose of payment of the Sponsor’s fee in cash or the other expenses of the Trust.

The Commission has previously approved listing on the Exchange under NYSE Arca Rules 5.2-E(j)(5) and 8.201-E of other precious metals and gold-based commodity trusts,

¹⁵ The Trustee is a fiduciary under the Trust Agreement and must satisfy the requirements of Section 3807 of the Delaware Statutory Trust Act. However, the fiduciary duties, responsibilities and liabilities of the Trustee are limited by, and are only those specifically set forth in, the Trust Agreement. The Trust does not have a Board of Directors or persons acting in a similar capacity.

¹⁶ The Mint operates pursuant to the Royal Canadian Mint Act (Canada) and is a Canadian Crown corporation. Crown corporations are corporations wholly-owned by the Government of Canada. The Mint is, for all its purposes, an agent of Her Majesty in right of Canada and, as such, its obligations generally constitute unconditional obligations of the Government of Canada. The Gold Custodian is responsible for safekeeping the gold owned by the Trust pursuant to gold storage and custody agreements. The Gold Custodian will store gold for the account of the Trust on an allocated basis in the Trust’s allocated account (the “Trust Allocated Account”), except where gold is temporarily held in an unallocated account on an unallocated basis in the Trust’s unallocated account (the “Trust Unallocated Account”). Unallocated gold is gold stored by or on behalf of the Mint on behalf of its customers consisting of gold that is not specifically designated as being held by a particular customer and will not qualify as Sprott ESG Approved Gold. The Mint will facilitate the transfer of gold in and out of the Trust through (i) accounts that Authorized Participants (as defined below) have established at a London Precious Metals Clearing Limited clearing bank and (ii) the Trust Unallocated Account and Trust Allocated Account it will maintain for the Trust. The Gold Custodian is responsible for allocating specific bars of gold to the Trust Allocated Account. The Gold Custodian will provide the Trust with regular reports detailing the gold transfers in and out of the Trust Unallocated Account with the Gold Custodian and identifying the gold bars held in the Trust Allocated Account. Unallocated gold held by the Trust consists of a pool of London Good Delivery gold bars.

including the GraniteShares Gold MiniBAR Trust;¹⁷ the GraniteShares Gold Trust;¹⁸ the Merk Gold Trust;¹⁹ the APMEX Physical-1 oz. Gold Redeemable Trust;²⁰ and the Long Dollar Gold Trust.²¹

The Exchange represents that the Shares will satisfy the requirements of NYSE Arca Rule 8.201-E and thereby qualify for listing on the Exchange.²²

Operation of the Trust²³

The investment objective of the Trust will be for the Shares to reflect the performance of the price of gold, less the Trust's expenses and liabilities through an investment in physical gold bullion that meets certain ESG criteria determined by the Sponsor and on a temporary basis in unallocated gold. The Trust will issue Shares which represent units of fractional undivided beneficial interest in and ownership of the Trust.

The Trust's assets are expected to consist primarily of fully allocated unencumbered physical gold bullion held by the Mint on behalf of the Trust that meets certain environmental, social and governance ("ESG") standards and criteria established by the Sponsor ("Sprott ESG Approved Gold"). As described below, the Trust will also hold unallocated gold on a temporary basis, particularly in connection with creations and redemptions. Such unallocated gold will not

¹⁷ See Securities Exchange Act Release No. 84257 (September 21, 2018), 83 FR 48877 (September 27, 2018) (SR-NYSEArca- 2018-55).

¹⁸ See Securities Exchange Act Release No. 81077 (July 5, 2017), 82 FR 32024 (July 11, 2017) (SR-NYSEArca- 2017-55).

¹⁹ See Securities Exchange Act Release No. 71378 (January 23, 2014), 79 FR 4786 (January 29, 2014) (SR-NYSEArca-2013-137).

²⁰ See Securities Exchange Act Release No 66930 (May 7, 2012), 77 FR 27817 (May 11, 2012) (SR-NYSEArca-2012-18)

²¹ See Securities Exchange Act Release No. 79518 (December 9, 2016), 81 FR 90876 (December 15, 2016) (SR-NYSEArca-2016-84) (order approving listing and trading of shares of the Long Dollar Gold Trust).

²² With respect to the application of Rule 10A-3 (17 CFR 240.10A-3) under the Act, the Trust relies on the exemption contained in Rule 10A-3(c)(7).

²³ The description of the operation of the Trust, the Shares and the gold market contained herein are based, in part, on the Registration Statement. See note 11, supra.

qualify as Sprott ESG Approved Gold. The Trust does not have a minimum amount of Sprott ESG Approved Gold that it is required to hold at any given time. Sprott ESG Approved Gold and unallocated gold are described in more detail below.

The Trust will not trade in gold futures, options or swap contracts on any futures exchange or over the counter (“OTC”). The Trust will not hold or trade in commodity futures contracts, “commodity interests”, or any other instruments regulated by the Commodity Exchange Act. The Trust’s Cash Custodian may hold cash temporarily received from the sale of gold. The Trust’s assets will only consist of Sprott ESG Approved Gold, unallocated gold and cash.

The Shares are intended to constitute a simple and cost-effective means of making an investment similar to an investment in gold bullion that meets the ESG Criteria. Although the Shares are not the exact equivalent of an investment in gold, they provide investors with an alternative that allows a level of participation in the gold market through the securities market.

Sprott ESG Approved Gold

Sprott ESG Approved Gold will be produced by the Mint specifically for the Trust using raw material that meets the criteria discussed below. Sprott ESG Approved Gold, as defined for purposes of the Trust, is not available in the general marketplace, although others, including other funds, may use the term “ESG” for gold used for their purposes.

The term “Sprott ESG Approved Gold” refers to gold that is physically indistinguishable from other gold but that has been sourced and produced in a manner consistent with the ESG standards and criteria used by the Sponsor (the “ESG Criteria”), which are designed to provide investors with an enhanced level of ESG scrutiny along with disclosure of the provenance of the metal sourced, and include an evaluation of mining companies and mines.²⁴ Mining companies

²⁴ The ESG Criteria are anticipated to evolve over time at the discretion of the Sponsor. Also, one or more criterion may not be relevant with respect to all sources of gold that are eligible for investment. Factors that could be considered by the Sponsor in modifying the ESG Criteria include changes to current gold mining techniques or standards, evolving

and mines that meet the ESG Criteria (“Sprott ESG Approved Mining Companies” and “Sprott ESG Approved Mines”, respectively) must also comply with the Mint Responsible Sourcing Requirements (as defined below). An overview of the Sponsor’s application of the ESG Criteria to mining companies and mines that can provide the material for Sprott ESG Approved Gold is provided below.

The application of the ESG Criteria involves multiple levels of analysis. While the Sponsor’s evaluation of mines and mining companies will include the objective factors discussed below, the Sponsor will also evaluate company reports and, where possible, interview key personnel to assess whether such a mining company or mine meets the ESG Criteria, which will require the subjective judgment of the Sponsor. The selection of these factors and how they are applied will be based, at least to some degree, on the judgment of the Sponsor and may or may not be consistent with current or future standards used by others in the industry. The ESG Criteria are subject to change by the Sponsor in its sole discretion. Any such changes will be reflected on the Trust’s website promptly after any change to the ESG Criteria, Sprott ESG Approved Mines or Sprott ESG Approved Mining Companies has been made.

The ESG Criteria are in addition to those used in the LBMA Responsible Sourcing Program, as detailed in the LBMA’s Responsible Gold Guidance, and are designed to provide investors with an enhanced level of ESG scrutiny along with disclosure of the provenance of the metal sourced. The Mint currently requires that its refining customers, including mines, meet the requirements outlined in the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, the LBMA Responsible Gold Guidance, the Mint’s Responsible Metals Program and the Mint’s Anti-Money Laundering and Anti-Terrorist Financing Program in compliance with the Proceeds of Crime (Money Laundering) and

legal standards, the introduction of new standards or evaluation frameworks within the mining industry or the elimination of existing standards or frameworks that in the view of the Sponsor are relevant to the ESG assessment of a mining company or mine site.

Terrorist Financing Act (Canada) (collectively, the “Mint Responsible Sourcing Requirements”). Only mines which the Mint determines meet and maintain the Mint Responsible Sourcing Requirements and with whom the Mint has a contractual refining relationship (each a “Mint Approved Mine”, collectively the “Mint Approved Mines”) will be eligible for consideration by the Sponsor as a provider of Sprott ESG Approved Gold. The Mint will cease refining gold from any Mint Approved Mine that no longer meets the Mint Responsible Sourcing Requirements, as determined by the Mint from time to time. The Mint Responsible Sourcing Requirements are subject to change by the Mint in its sole discretion.

The ESG factors are a component of the ESG Criteria and are used for the ESG assessment of mines and miners generally, and will encompass the following factors:

- Environmental Factors
 - Energy use and greenhouse gas emissions
 - Tailings and waste management
 - Conservation and water management
 - Mine site remediation
- Social Factors
 - Worker safety and health
 - Community relations
 - Natural resource benefit to local communities
 - Child and forced labor
- Governance Factors
 - Corporate governance
 - Workplace and gender diversity
 - Fair executive compensation
 - Corporate transparency and disclosures

Mining companies that qualify for the LBMA’s Responsible Sourcing Program and are

Mint Approved Mines will then be subject to two levels of ESG screening by the Sponsor: at the overall company level and at the individual mine site level.

First, the Sponsor will evaluate a mining company that operates a Mint Approved Mine using ESG factors determined by the Sponsor (described above). This evaluation will use a number of tools, which include ratings from third-party research providers, such as Sustainalytics ESG Risk Ratings, along with sell-side equity research reports. With respect to corporate governance, the Sponsor will evaluate recommendations from proxy voting research providers, such as the Glass Lewis Proxy Review. The Sponsor will also use compliance with precious metals industry standards as an objective factor in its evaluation of such mining companies. Each such mining company with high ESG ratings and favorable recommendations from proxy voting research providers that complies with precious metals industry standards will be designated as a Sprott ESG Approved Mining Company. Second, the Sponsor will evaluate individual mine site locations of each Sprott ESG Approved Mining Company. Each mine location of a Sprott ESG Approved Mining Company will then be evaluated by the Sponsor as follows: (1) the performance of each mine against various indicators in the Mining Association of Canada's Towards Sustainable Mining standards; (2) using the ESG factors described above; and (3) whether such mine is in a heightened risk or conflict area.²⁵ Each mining location of that Sprott ESG Approved Mining Company that (a) the Sponsor determines to meet the Mining Association of Canada's Towards Sustainable Mining standards and the ESG factors, and (b) is not in a heightened risk or conflict area will be designated as a Sprott ESG Approved Mine.

²⁵ Heightened risk or conflict areas include areas where:

- human rights abuses, forced or child labor, war crimes or genocide are prevalent;
- mines are involved in direct or indirect support to non-state actors that use arms without legal authority;
- mines transport gold or supplies along routes that involve payment of illegal taxes or extortions; and
- mines are involved in money laundering or terrorism financing.

Only Sprott ESG Approved Mines will be permitted to supply the raw material for Sprott ESG Approved Gold to the Mint, which will then refine the raw material to create Sprott ESG Approved Gold for the Trust. This means that the provenance of Sprott ESG Approved Gold will be known to the Trust. Notwithstanding its special provenance, there is no separate market for gold from Sprott ESG Approved Mines.

Based on its analysis of certain existing mines and taking into consideration the amount of physical gold bullion held by existing gold bullion ETFs, the Sponsor believes that a sufficient amount of raw material to create Sprott ESG Approved Gold for the Trust exists and will exist in the future.²⁶

The Sponsor's fee, which will be paid for by the Trust, and thus the shareholders, will include any costs associated with researching, establishing and maintaining the ESG Criteria, assessing mining companies and mines against certain of the ESG Criteria and the diligence of the Trust's Sprott ESG Approved Gold holdings. The Sponsor will conduct research on each mining company using its in-house investment professionals and may use the services of outside consultants.

Unallocated Gold

The Trust's assets will also include unallocated unencumbered physical gold bullion stored by the Mint on behalf of the Trust and cash. Unallocated gold is gold stored by or on behalf of the Mint in a pool on behalf of its customers; gold in that pool is not specifically

²⁶ Current output from North American mines that the Sponsor estimates would likely meet the definition of Sprott ESG Approved Mines (based on currently available public information) is between \$12 and \$15 billion per year. If the Sprott ESG Approved Gold held by the Trust would increase in any given year by approximately 25% of that estimated output, the Mint has represented that it would have the operational capacity to refine such amount of Sprott ESG Approved Gold. If the Trust's increase would exceed that amount, the Trust would have to locate additional refiners, either in North America (for doré mined in North America) or elsewhere (for doré mined outside of North America); based on its experience in the gold industry, the Sponsor does not expect any difficulties with engaging such additional refiners in a timely manner.

designated as being held by a particular customer and shall mean, for purposes of this proposal, any gold that does not qualify as Sprott ESG Approved Gold.

While there is no minimum amount of Sprott ESG Approved Gold that the Trust will hold, the Sponsor expects to exchange the Trust's holdings of unallocated physical gold into Sprott ESG Approved Gold as soon as reasonably practicable, to the extent that unallocated physical gold is not needed under the circumstances described below.²⁷

From time-to-time, on a temporary basis the Trust will hold unallocated physical gold bullion under the following circumstances: (1) in connection with transfers of gold to settle creations and redemptions of Creation Units (as defined below);²⁸ (2) until additional Sprott ESG Approved Gold can be produced by the Mint; (3) to the extent that the Trust holds gold in an amount less than a whole bar; and (4) in connection with payment of expenses of the Trust. Although the Trust intends to instruct the Mint to exchange unallocated physical gold bullion to Sprott ESG Approved Gold as soon as reasonably practicable, there is no limit on the amount of unallocated physical gold bullion that the Trust can hold. The Mint's ability to exchange unallocated physical gold bullion into Sprott ESG Approved Gold depends on various factors, including the size of the Trust's unallocated physical gold bullion holdings, the Trust's need for unallocated physical gold bullion to meet redemption requests, the availability of raw material for the Mint to produce additional Sprott ESG Approved Gold, the Mint's production capacity and certain minimum size requirements.

The Trust does not intend to hold a certain amount and maintains no minimum amount of gold in unallocated form to satisfy redemption requests or to pay expenses. Because the Trust has to pay the Sponsor's fee on a monthly basis and may receive a redemption request on any

²⁷ See "Creation and Redemption of Shares" below, further discussing the exchange process from unallocated physical gold to Sprott ESG Approved Gold.

²⁸ Unallocated gold has been used for creation and redemption requests by gold ETFs and ETPs for many years and has become the main form of gold in which creation and redemption requests are settled.

given business day (days other than a Saturday, Sunday or holiday) (“Business Day”), the Trust expects to hold some amount of unallocated gold at any given point in time. The Trust’s holdings of unallocated gold may be a significant percentage of the Trust’s assets if, for example, the Trust has received more requests for creations than redemptions or the Trust’s unallocated gold holdings are not sufficient to meet certain minimum size requirements to exchange unallocated gold to Sprott ESG Approved Gold at the Mint. There may be other times when the Trust’s holdings of unallocated gold are a significant percentage of the Trust’s assets, and there is no maximum percentage of the Trust’s assets that may consist of unallocated gold. The Trust may need to instruct the Mint to exchange Sprott ESG Approved Gold into unallocated gold if insufficient unallocated gold is available to be sold to pay expenses or to meet redemption requests.²⁹

There Is No Industry Standard for ESG Factors That Apply to Gold Production

There is no industry standard for ESG factors that apply to gold production. The ESG Criteria and the processes and methods for producing and using Sprott ESG Approved Gold for the Trust’s operations have been developed by the Sponsor specifically for the Trust; specifically, the Mint will segregate the doré³⁰ received from Sprott ESG Approved Mines from doré originating from non-Sprott ESG Approved Mines, and will segregate Sprott ESG Approved Gold from gold produced from doré originating from non-Sprott ESG Approved Mines. Sprott ESG Approved Gold will be produced by the Mint in special runs that will ensure that no gold from non-Sprott ESG Approved Mines will be included in the bars of Sprott ESG Approved Gold. No such special runs will take place until the launch of the Trust; therefore, there have been no market transactions in Sprott ESG Approved Gold. The Trust is not aware of

²⁹ Because Authorized Participants (as defined below) expect redemption requests to be settled through the delivery of unallocated gold (as opposed to allocated gold which is in the form of physical bars), the Trust may at times need to exchange allocated for unallocated gold.

³⁰ The raw material created by mines that is used to refine gold is called “doré”.

a separate market for Sprott ESG Approved Gold and does not believe that one will develop. Bars that consist of Sprott ESG Approved Gold are not marked in any special way, nor do such bars have any special physical characteristics (aside from consisting only of Sprott ESG Approved Gold) and they are indistinguishable from LBMA London Good Delivery. Once Sprott ESG Approved Gold bars leave the possession of the Trust, they will be treated as regular LBMA London Good Delivery gold. It is not possible for a market participant to purchase all the Sprott ESG Approved Gold bars in order to affect the ability of the Trust to add Sprott ESG Approved Gold bars to its inventory, as the Trust relies on the Mint to refine and produce the Sprott ESG Approved Gold bars and does not rely on any bars that have left the possession of the Trust. Although there are additional costs associated with sourcing and producing Sprott ESG Approved Gold that will be included in the Sponsor's fee, the value of the Sprott ESG Approved Gold held by the Trust will be determined by utilizing the LBMA Gold Price PM (as defined below), which does not distinguish between gold that meets ESG Criteria and gold that does not.³¹ The ESG Criteria used by the Sponsor to screen the sources for the Trust's Sprott ESG Approved Gold may or may not be consistent with current or future standards used by others in the industry.

How Sprott ESG Approved Gold Will be Created for the Trust

In order to create Sprott ESG Approved Gold, the Mint will, upon request by the Trust, from time to time refine doré from Sprott ESG Approved Mines to produce bars of Sprott ESG Approved Gold. The doré used to create Sprott ESG Approved Gold is indistinguishable from doré already used by the Mint for gold production;³² no separate market or marketplace exists for gold produced using such doré. Sprott ESG Approved Gold is the combination of sourcing of the

³¹ See "How Sprott ESG Approved Gold Will be Created for the Trust" and "Valuation of the Trust's Gold" below.

³² The Mint uses doré from these mines to create Post-2012 LBMA Bars. See footnote 32 [sic], infra.

doré and production of the gold by the Mint in special production runs.

In order to ensure that the Sprott ESG Approved Gold created by the Mint uses only doré from Sprott ESG Approved Mines, the Mint will create the Trust's Sprott ESG Approved Gold in special production runs, and will charge a special processing fee for that. This special processing fee, along with any additional costs associated with the enhanced sourcing requirements of Sprott ESG Approved Gold, including researching, establishing and maintaining the ESG Criteria, assessing mining companies and mines against certain of the ESG Criteria and the diligence of the Trust's Sprott ESG Approved Gold Holdings will be included in the Sponsor's fee.

Valuation of the Trust's Gold

"London Good Delivery" means gold bars that meet the standard measure of quality in gold bullion as set forth by the London Bullion Market Association ("LBMA"). All London Good Delivery gold is priced equally; the only requirement is that it meets LBMA standards."³³

Sprott ESG Approved Gold meets the standards of London Good Delivery gold bars and the more stringent ESG Criteria developed by the Sponsor and shall be from Sprott ESG Approved Mines. As discussed below under "No Separate Market for Sprott ESG Approved Gold Exists", no separate market for Sprott ESG Approved Gold exists and none is expected to develop. Because Sprott ESG Approved Gold is London Good Delivery gold and because no separate market for Sprott ESG Approved Gold exists, the Sponsor determined that its Sprott ESG Approved Gold should be valued, for purposes of determining the net asset value ("NAV")

³³ For instance, LBMA changed its gold sourcing standards in 2012. Because gold is generally never destroyed once it is minted, today there are London Good Delivery gold bars available that were created before 2012 (using pre-2012 LBMA standards) ("Pre-2012 LBMA Bars") and London Good Delivery gold bars that were created after the 2012 standards were implemented by the LBMA ("Post-2012 LBMA Bars"). When purchasing London Good Delivery gold bars, it is possible to selectively purchase Post-2012 LBMA Bars. Notwithstanding the differing sourcing standards, both Pre-2012 LBMA Bars and Post-2012 LBMA Bars are priced the same.

of the Trust, as London Good Delivery gold.³⁴

The value of the gold held by the Trust, whether allocated Sprott ESG Approved Gold or unallocated gold, will be determined by utilizing the p.m. price of gold expressed in U.S. dollars, as published by the LBMA (the “LBMA Gold Price PM”).³⁵ The LBMA Gold Price PM, which is used to value gold by many stakeholders in the securities industry³⁶, applies to all forms of gold and does not distinguish between Sprott ESG Approved Gold and other gold.

Operation of the Gold Market

The global trade in gold consists of OTC transactions in spot, forwards, and options and other derivatives, together with exchange-traded futures and options.

The OTC gold market includes spot, forward, and option and other derivative transactions conducted on a principal-to-principal basis. While this is a global, nearly 24-hour per day market, its main centers are London, New York, and Zurich.

According to the Registration Statement, most OTC market trades are cleared through London. The LBMA plays an important role in setting OTC gold trading industry standards. A London Good Delivery Bar (as described below), which is acceptable for settlement of any OTC transaction, will be acceptable for delivery to the Trust in connection with the issuance of Creation Units (defined below).

The most significant gold futures exchange in the U.S. is COMEX, operated by Commodities Exchange, Inc., a subsidiary of New York Mercantile Exchange, Inc., and a subsidiary of the Chicago Mercantile Exchange Group (the “CME Group”). Other commodity

³⁴ The Trust reached that conclusion based on the fact that Pre-2012 LBMA Bars and Post-2012 LBMA Bars are valued the same. See footnote 32 [sic], supra.

³⁵ All references to LBMA Gold Price PM are used with the permission of Ice Benchmark Administration Limited and have been provided for information purposes only. Ice Benchmark Administration Limited accepts no liability or responsibility for the accuracy of the prices or the underlying product to which the prices may be referenced.

³⁶ The SPDR Gold Trust, the iShares Gold Trust, the Aberdeen Standard Physical Gold Shares ETF, the VanEck Merk Gold Trust and the GraniteShares Gold Trust, among others, each use the LBMA Gold Price PM.

exchanges include the Tokyo Commodity Exchange (“TOCOM”), the Multi Commodity Exchange Of India (“MCX”), the Shanghai Futures Exchange, ICE Futures US (the “ICE”), and the Dubai Gold & Commodities Exchange. The CME Group and ICE are members of the Intermarket Surveillance Group (“ISG”).

No Separate Market for Sprott ESG Approved Gold

As discussed in “Valuation of the Trust’s Gold” above, all London Good Delivery gold is deemed fungible by participants in the gold market and is valued the same. For example, Pre-2012 LBMA Bars and Post-2012 LBMA Bars are priced identically, even though the doré to create gold Post-2012 LBMA Bars is subject to different and generally more rigorous responsible gold sourcing guidelines than gold used to create Pre-2012 LBMA Bars.

In addition, there is no industry standard for ESG factors that apply to gold production and even if an industry standard for ESG factors that apply to gold production were to develop, it is likely that such industry standards would be different than the ESG Criteria. The ESG Criteria and the method for producing and using Sprott ESG Approved Gold for the Trust’s operations have been designed by the Sponsor specifically for the Trust, and the ESG Criteria are not used by anyone other than the Trust. The Mint will not conduct any special runs to produce Sprott ESG Approved Gold until the launch of the Trust; therefore, there have been no market transactions in Sprott ESG Approved Gold. The Trust is not aware of a separate market for Sprott ESG Approved Gold and does not believe that one will develop, both because the ESG Criteria are unique to the Trust and the uniform pricing of London Good Delivery gold throughout the gold market, as shown by the example of Pre-2012 LBMA bars and Post-2012 LBMA bars.³⁷

³⁷ See also “There Is No Industry Standard for ESG Factors That Apply to Gold Production,” *supra*, discussing how Sprott ESG Approved Gold bars and other London Good Delivery Bars will be indistinguishable from each other once Sprott ESG Approved Gold bars are no longer in the possession of the Trust.

The London Gold Bullion Market

According to the Registration Statement, most trading in physical gold is conducted on the OTC market, predominantly in London. LBMA coordinates various OTC-market activities, including clearing and vaulting, acts as the principal intermediary between physical gold market participants and the relevant regulators, promotes good trading practices and develops standard market documentation. In addition, the LBMA promotes refining standards for the gold market by maintaining the “London Good Delivery List,” which identifies refiners of gold that have been approved by the LBMA. In the OTC market, gold bars that meet the specifications for weight, dimensions, fineness (or purity), identifying marks (including the assay stamp of an LBMA-acceptable refiner) and appearance described in “The Good Delivery Rules for Gold and Silver Bars” published by the LBMA are referred to as “London Good Delivery Bars.” A London Good Delivery Bar (typically called a “400 ounce bar”) must contain between 350 and 430 fine troy ounces of gold (1 troy ounce = 31.1034768 grams), with a minimum fineness (or purity) of 995 parts per 1000 (99.5%), be of good appearance and be easy to handle and stack. The fine gold content of a gold bar is calculated by multiplying the gross weight of the bar (expressed in units of 0.025 troy ounces) by the fineness of the bar. A London Good Delivery Bar must also bear the stamp of one of the refiners identified on the London Good Delivery List.

Following the enactment of the Financial Markets Act 2012, the Prudential Regulation Authority of the Bank of England is responsible for regulating most of the financial firms that are active in the bullion market, and the Financial Conduct Authority is responsible for consumer and competition issues. Trading in spot, forwards and wholesale deposits in the bullion market is subject to the Non-Investment Products (“NIPS”) Code adopted by market participants.

Creation and Redemption of Shares

The Trust will create and redeem Shares on a continuous basis in one or more blocks of 25,000 Shares (a block of 25,000 Shares is called a “Creation Unit”). As described below, the Trust will issue Shares in Creation Units to certain authorized participants (“Authorized

Participants”) on an ongoing basis. Each Authorized Participant must be a registered broker-dealer or other securities market participant such as a bank or other financial institution which is not required to register as a broker-dealer to engage in securities transactions, a participant in The Depository Trust Company (“DTC”), must have entered into an agreement with the Administrator (the “Participant Agreement”), and must maintain an unallocated gold account with a London Precious Metals Clearing Limited clearing bank (the “London Gold Clearing Bank”). The creation or redemption of Creation Units is only made in exchange for LBMA unallocated gold delivered to the Trust by an Authorized Participant or from the Trust to an Authorized Participant. Unallocated gold delivered to the Trust in connection with the creation of Creation Baskets will be exchanged by the Mint into Sprott ESG Approved Gold as described in “Exchange of Unallocated Gold to Sprott ESG Approved Gold and Sprott ESG Approved Gold to Unallocated Gold” below; likewise, whenever there is a redemption of Creation Units, the Mint will exchange Sprott ESG Approved Gold into unallocated gold. All such conversions are on a 1:1 basis, that is, each ounce of unallocated gold upon conversion will result in one ounce of Sprott ESG Approved Gold, and vice versa. Fees incurred with the exchange will be borne by the Sponsor, not the Trust.

Creation Units may be created or redeemed only by Authorized Participants. Orders must be placed by 3:59 p.m. Eastern Time (“E.T.”). The day on which a Trust receives a valid purchase or redemption order is the order date. An Authorized Participant will be required to enter into a trading agreement with the Mint for purposes of facilitating transfers of unallocated gold between the Trust and the Authorized Participant.

If an Authorized Participant places a creation order for a Creation Unit, it will deliver unallocated gold to the Trust, and the Mint will subsequently exchange the unallocated gold into an equal amount of Sprott ESG Approved Gold. The Mint stores Sprott ESG Approved Gold for the account of the Trust on an allocated basis (i.e., numbered gold bars held in the Mint’s nominated vaults are identified in the Mint’s records as belonging to the Trust). Generally, the

Mint will also, from time-to-time, on a temporary basis store unallocated physical gold bullion under the following circumstances: (1) in connection with transfers of gold to settle creations and redemptions of Creation Units; (2) until additional Sprott ESG Approved Gold can be produced by the Mint; (3) to the extent that the Trust holds gold in an amount less than a whole bar; and (4) in connection with payment of expenses of the Trust.

Creation Units are only issued or redeemed on a day that the Exchange is open for regular trading in an amount of gold determined by the Administrator. Because Sprott ESG Approved Gold can be sourced by the Mint only from a limited number of suppliers, from time-to-time, on a temporary basis until additional Sprott ESG Approved Gold can be produced by the Mint,³⁸ the Trust will hold gold in unallocated form. No Shares will be issued unless the Mint has received the corresponding amount of unallocated gold from the Authorized Participant and allocated it to the Trust's Unallocated Account.

According to the Registration Statement, Authorized Participants may surrender Creation Units in exchange for the corresponding amount of gold announced by the Transfer Agent. Generally, all gold delivered to Authorized Participants in connection with such redemptions will be in unallocated form. The Sponsor will instruct the Mint to exchange Sprott ESG Approved Gold into unallocated gold using the procedure described above if the Trust does not have sufficient unallocated gold to meet a redemption request. Upon the surrender of such Shares and the payment of the Transfer Agent's applicable fee and of any expenses, taxes or charges, the Transfer Agent will deliver to the order of the redeeming Authorized Participant the amount of unallocated gold corresponding to the redeemed Creation Units to such Authorized Participant's account at a London Gold Clearing Bank. Shares can only be surrendered for redemption in Creation Units of 25,000 Shares each.

³⁸ Currently, the Mint expects that the creation of new Sprott ESG Approved Gold bars would take about five Business Days. See footnote 26 and accompanying text, supra, discussing why the Sponsor believes that a sufficient amount of raw material to create Sprott ESG Approved Gold for the Trust exists and will exist in the future.

Before surrendering Creation Units for redemption, an Authorized Participant must deliver to the Trustee a written request indicating the number of Creation Units it intends to redeem. The date the Trustee receives that order determines the amount of unallocated gold to be received in exchange. However, orders received by the Trustee after 3:59 p.m. E.T. will be rejected.

The redemption distribution from the Trust will consist of a delivery of unallocated gold to the redeeming Authorized Participant's account at a London Gold Clearing Bank representing the amount of the unallocated gold held by the Trust evidenced by the Shares being redeemed as of the date of the redemption order.

Exchange of Unallocated Gold to Sprott ESG Approved Gold and Sprott ESG Approved Gold to Unallocated Gold

Creations and redemptions of Creation Units will be settled in unallocated gold, meaning that if an Authorized Participant places a creation order for a Creation Unit, it will deliver unallocated gold to the Trust, which will be held in the Trust's Unallocated Gold Account. The Mint will subsequently exchange the unallocated gold into an equal amount of Sprott ESG Approved Gold as described in "How Sprott ESG Approved Gold Will be Created for the Trust" above upon receipt of instructions from the Sponsor on behalf of the Trust to do so. Once exchanged into bars of Sprott ESG Approved Gold, the Mint stores such gold for account of the Trust on an allocated basis (i.e., numbered gold bars held in the Mint's nominated vaults are identified in the Mint's records as belonging to the Trust).

The Mint expects that it will be able to produce Sprott ESG Approved Gold within approximately five Business Days following the receipt of completed conversion request by the Sponsor on behalf of the Trust to exchange unallocated gold into Sprott ESG Approved Gold, subject to production capacity, availability and size requirements. The Business Day on which the conversion is to occur will be confirmed to the Sponsor in writing by the Mint. The Mint will issue a receipt of deposit of the bars of Sprott ESG Approved Gold to the Trust's Allocated Gold Account on the Business Day the production of all Sprott ESG Approved Gold underlying

a conversion request form is completed and the Sprott ESG Approved Gold has been delivered to the Trust's Allocated Gold Account.

Like creations, redemptions of Creation Units will be settled in unallocated gold. If there is not sufficient unallocated gold in the Trust's Unallocated Gold Account, the Mint will exchange Sprott ESG Approved Gold for an equal amount of unallocated gold upon the receipt of proper instructions from the Sponsor to exchange an amount of Sprott ESG Approved Gold from the Trust's Allocated Account and deposit an equal amount of unallocated gold into the Trust's Unallocated Account. The Sponsor will make such exchange requests based on its determination of the Trust's needs for unallocated gold to meet redemption requests and to pay expenses. The written exchange request must specify the Sprott ESG Approved Gold to be exchanged, including, for each bar to be exchanged, the bar number, the weight in fine and gross troy ounces and the assay characteristics. Exchanges of Sprott ESG Approved Gold into unallocated gold will be processed within one (1) Business Day from reception of proper and complete instructions in writing and will be confirmed by the Mint by facsimile or email on the day the exchange is completed. The Mint will issue a confirmation of a completed exchange by facsimile or by e-mail on the Business Day that the exchange is completed.

All exchanges of unallocated gold to Sprott ESG Approved Gold and from Sprott ESG Approved Gold to unallocated gold are on a 1:1 basis, that is, each ounce of unallocated gold upon conversion will result in one ounce of Sprott ESG Approved Gold, and vice versa. Fees incurred with the exchange will be included in the Sponsor's fee.

Net Asset Value

The NAV of the Trust will be calculated by subtracting the Trust's expenses and liabilities on any day from the value of the gold (in whatever form) and cash (if any) owned by the Trust on that day; the NAV per Share will be obtained by dividing the NAV of the Trust on a

given day by the number of Shares outstanding on that day.³⁹

On each day on which the Exchange is open for regular trading, the Administrator will determine the NAV as promptly as practicable after 4:00 p.m. E.T. The Administrator will value the Trust's gold, regardless of whether it is in the form of allocated Sprott ESG Approved Gold or unallocated gold, on the basis of LBMA Gold Price PM. If the Sponsor deems it necessary, the Sponsor and the Administrator may agree to use a widely recognized pricing service for purposes of ascertaining the price of gold to use when calculating the NAV. The NAV per Share will be calculated by taking the current price of the Trust's total assets, subtracting any liabilities, and dividing by the total number of Shares outstanding.

Authorized Participants will not receive from the Sponsor, the Trust or any affiliates any fee or other compensation in connection with the offering of the Shares.

Availability of Information Regarding Gold

Currently, the Consolidated Tape Plan does not provide for dissemination of the spot price of a commodity such as gold over the Consolidated Tape. However, there will be disseminated over the Consolidated Tape the last sale price for the Shares, as is the case for all equity securities traded on the Exchange (including exchange-traded funds). In addition, there is a considerable amount of information about gold and gold markets available on public websites and through professional and subscription services.

Investors may obtain gold pricing information on a 24-hour basis based on the spot price for an ounce of gold from various financial information service providers, such as Reuters and Bloomberg.

³⁹ The Trust will be responsible for the Sponsor's fee and the fees and expenses that are not contractually assumed by the Sponsor, including but not limited to taxes and governmental charges, expenses related to extraordinary services performed by the Sponsor or other service provider of the Trust, and litigation and indemnification obligations of the Trust. The Trust only invests in gold, but may have other assets on its balance sheet from time to time such as cash on a temporary basis or a receivable that is incidental to the operations of the Trust (for example, a receivable created as a result of a fee waiver from the Sponsor).

Reuters and Bloomberg, for example, provide at no charge on their websites delayed information regarding the spot price of gold and last sale prices of gold futures, as well as information about news and developments in the gold market. Reuters and Bloomberg also offer a professional service to subscribers for a fee that provides information on gold prices directly from market participants. Complete real-time data for gold futures and options prices traded on the COMEX are available by subscription from Reuters and Bloomberg. There are a variety of other public websites providing information on gold, ranging from those specializing in precious metals to sites maintained by major newspapers. In addition, the LBMA Gold Price is publicly available at no charge at www.lbma.org.uk.

Availability of Information

The intraday indicative value (“IIV”) per Share for the Shares will be disseminated by one or more major market data vendors on at least a 15-second delayed basis, as required by NYSE Arca Rule 8.201-E(e)(2)(v). The IIV will be calculated based on the amount of gold held by the Trust (regardless of whether it is in the form of allocated Sprott ESG Approved Gold or unallocated gold) and a price of gold derived from updated bids and offers indicative of the spot price of gold.⁴⁰ The NAV of the Trust will be published on each Business Day and will be posted on the Trust’s website.

The website for the Trust (<https://sprott.com/investment-strategies/physical-bullion-trusts>) will contain the following information, on a per Share basis, for the Trust: (a) the mid-point of the bid-ask price⁴¹ at the close of trading (“Bid/Ask Price”), and a calculation of the premium or discount of such price against such NAV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. The website for the Trust will

⁴⁰ The IIV on a per Share basis disseminated during the Core Trading Session should not be viewed as a real-time update of the NAV, which is calculated once a day.

⁴¹ The bid-ask price of the Shares will be determined using the highest bid and lowest offer on the Consolidated Tape as of the time of calculation of the closing day NAV.

also provide the Trust's prospectus as well as the two most recent reports to shareholders. The daily holdings of the Trust's unallocated gold and Sprott ESG Approved Gold will be available on the Trust's website before 9:30 a.m. E.T. each Business Day. Finally, the Trust's website will be updated once daily to provide the last sale price of the Shares as traded in the U.S. market at the end of regular trading. In addition, information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

The Trust will maintain, on its website, current lists of the ESG Criteria, and Sprott ESG Approved Mines and Sprott ESG Approved Mining Companies from which the Trust sources its Sprott ESG Approved Gold. The Trust anticipates that Sprott ESG Approved Mines and Sprott ESG Approved Mining Companies may be added or removed from such lists over time based on, among other things, whether such Sprott ESG Approved Mines and Sprott ESG Approved Mining Companies meet the evolving ESG Criteria and whether they are Mint Approved Mines. The Trust will update the information on its website promptly after any change to the ESG Criteria, Sprott ESG Approved Mines or Sprott ESG Approved Mining Companies.

Criteria for Initial and Continued Listing

The Trust will be subject to the criteria in NYSE Arca Rule 8.201-E(e) for initial and continued listing of the Shares.

A minimum of two Creation Units or 100,000 Shares will be required to be outstanding at the start of trading, which is equivalent to 20,000 fine ounces of gold or about \$36,527,000 as of February 9, 2022. The Exchange believes that the anticipated minimum number of Shares outstanding at the start of trading is sufficient to provide adequate market liquidity.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the

Trust subject to the Exchange's existing rules governing the trading of equity securities. Trading in the Shares on the Exchange will occur in accordance with NYSE Arca Rule 7.34-E(a). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Rule 7.6-E, Commentary .03, the minimum price variation (“MPV”) for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is \$0.01, with the exception of securities that are priced less than \$1.00 for which the MPV for order entry is \$0.0001.

Further, NYSE Arca Rule 8.201-E sets forth certain restrictions on ETP Holders acting as registered Market Makers in the Shares to facilitate surveillance. Under NYSE Arca Rule 8.201-E(g), an ETP Holder acting as a registered Market Maker in the Shares is required to provide the Exchange with information relating to its trading in the underlying gold, any related futures or options on futures, or any other related derivatives. Commentary .04 of NYSE Arca Rule 11.3-E requires an ETP Holder acting as a registered Market Maker, and its affiliates, in the Shares to establish, maintain and enforce written policies and procedures reasonably designed to prevent the misuse of any material nonpublic information with respect to such products, any components of the related products, any physical asset or commodity underlying the product, applicable currencies, underlying indexes, related futures or options on futures, and any related derivative instruments (including the Shares).

As a general matter, the Exchange has regulatory jurisdiction over its ETP Holders and their associated persons, which include any person or entity controlling an ETP Holder. To the extent the Exchange may be found to lack jurisdiction over a subsidiary or affiliate of an ETP Holder that does business only in commodities or futures contracts, the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading on the Exchange in the Shares may

be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) the extent to which conditions in the underlying gold market have caused disruptions and/or lack of trading, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in Shares will be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's "circuit breaker" rule.⁴² The Exchange will halt trading in the Shares if the NAV of the Trust is not calculated or disseminated daily. The Exchange may halt trading during the day in which an interruption occurs to the dissemination of the IIV, as described above. If the interruption to the dissemination of the IIV persists past the trading day in which it occurs, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by the Financial Industry Regulatory Authority ("FINRA") on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.⁴³ The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened,

⁴² See NYSE Arca Rule 7.12-E.

⁴³ FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.⁴⁴

Also, pursuant to NYSE Arca Rule 8.201-E(g), the Exchange is able to obtain information regarding trading in the Shares and the underlying gold, gold futures contracts, options on gold futures or any other gold derivatives through ETP Holders acting as registered Market Makers, in connection with such ETP Holders' proprietary or customer trades through ETP Holders which they effect on any relevant market.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

All statements and representations made in this filing regarding (a) the description of the portfolio or reference assets, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in this rule filing shall constitute continued listing requirements for listing the Shares of the Trust on the Exchange.

⁴⁴ For a list of the current members of ISG, see www.isgportal.org.

The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Trust to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5-E(m).

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (1) the procedures for purchases and redemptions of Shares in Creation Units (including noting that Shares are not individually redeemable); (2) NYSE Arca Rule 9.2-E(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) how information regarding the IIV is disseminated; (4) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (5) the possibility that trading spreads and the premium or discount on the Shares may widen as a result of reduced liquidity of gold trading during the Core and Late Trading Sessions after the close of the major world gold markets; and (6) trading information. For example, the Information Bulletin will advise ETP Holders, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Trust. The Exchange notes that investors purchasing Shares directly from the Trust will receive a prospectus. ETP Holders purchasing Shares from the Trust for resale to investors will deliver a prospectus to such investors. In addition, the Information Bulletin will reference that the Trust is subject to various fees and expenses as will be described in the Registration Statement. The Information Bulletin will also reference the fact that there is no regulated source of last sale information regarding physical gold, that the Commission has no jurisdiction over the trading of gold as a physical commodity, and that the CFTC has regulatory jurisdiction over the trading of gold futures

contracts and options on gold futures contracts. The Information Bulletin will also discuss any relief, if granted, by the Commission or the staff from any rules under the Act.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)⁴⁵ that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.201-E. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that there is a considerable amount of gold price and gold market information available on public websites and through professional and subscription services. Investors may obtain on a 24-hour basis gold pricing information based on the spot price for an ounce of gold from various financial information service providers. Investors may obtain gold pricing information based on the spot price for an ounce of gold from various financial information service providers. Current spot prices also are generally available with bid/ask spreads from gold bullion dealers. In addition, the Trust's website will provide

⁴⁵ 15 U.S.C. 78f(b)(5).

pricing information for gold spot prices and the Shares. Market prices for the Shares will be available from a variety of sources including brokerage firms, information websites and other information service providers. The NAV of the Trust will be published by the Sponsor on each day that the NYSE Arca is open for regular trading and will be posted on the Trust's website. The IIV relating to the Shares will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session. In addition, the LBMA Gold Price is publicly available at no charge at www.lbma.org.uk. The Trust's website will also provide the Trust's prospectus, as well as the two most recent reports to shareholders, and lists of the Trust's ESG Criteria, Sprott ESG Approved Mines and Sprott ESG Approved Mining Companies from which the Trust will source its Sprott ESG Approved Gold. In addition, information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding gold pricing.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The

Exchange believes the proposed rule change will enhance competition by accommodating Exchange trading of an additional exchange-traded product relating to physical gold.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.⁴⁶ In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,⁴⁷ which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that the proposed rule change is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately. The NAV of the Trust will be published by the Sponsor on each day that the NYSE Arca is open for regular trading and will be posted on the Trust's website. The IIV relating to the Shares will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session. The IIV will be calculated based on the amount of gold held by the Trust (regardless of whether it is in the form of allocated Sprott ESG Approved Gold or unallocated gold) and a price of gold derived from updated bids and offers indicative of the spot price of gold. Based on the information provided by the Exchange, the Commission believes that there is no separate market for Sprott ESG Approved Gold. Sprott ESG Approved Gold will

⁴⁶ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁴⁷ 15 U.S.C. 78f(b)(5).

be physically indistinguishable from LBMA London Good Delivery gold. All gold held by the Trust, whether Sprott ESG Approved Gold or unallocated gold, will be valued the same and will be determined by the p.m. price of gold expressed in U.S. dollars, as published by the LBMA. Sprott ESG Approved Gold will meet the London Good Delivery standards, and unallocated gold held by the Trust consists of a pool of London Good Delivery gold bars. The LBMA Gold Price is publicly available at no charge at www.lbma.org.uk.

Additionally, the website for the Trust (<https://sprott.com/investment-strategies/physical-bullion-trusts>) will contain the following information, on a per Share basis, for the Trust: (a) the mid-point of the bid-ask price⁴⁸ at the close of trading (“Bid/Ask Price”), and a calculation of the premium or discount of such price against such NAV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. The website for the Trust will also provide the Trust’s prospectus as well as the two most recent reports to shareholders.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers’ computer screens and other electronic services. The Trust’s website will be updated once daily to provide the last sale price of the Shares as traded in the U.S. market at the end of regular trading. Information regarding the previous day’s closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. While the Consolidated Tape Plan does not provide for dissemination of the spot price of a commodity such as gold over the Consolidated Tape, the last sale price for the Shares will be disseminated over the Consolidated Tape. In addition, there is a considerable amount of information about gold and gold markets available on public websites and through professional and subscription services. Investors may obtain gold pricing

⁴⁸ The bid-ask price of the Shares will be determined using the highest bid and lowest offer on the Consolidated Tape as of the time of calculation of the closing day NAV.

information on a 24-hour basis based on the spot price for an ounce of gold from various financial information service providers.⁴⁹

The Commission also believes that the proposal is reasonably designed to prevent trading when a reasonable degree of transparency cannot be assured. The Exchange represents that it will halt trading in the Shares if the NAV of the Trust is not calculated or disseminated daily. If the IIV is not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the IIV occurs. If the interruption to the dissemination of the IIV persists past the trading day in which it occurs, the Exchange will halt trading no later than the beginning of the trading day following the interruption. With respect to trading halts, the Exchange states that it may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading on the Exchange in the Shares may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) the extent to which conditions in the underlying gold market have caused disruptions and/or lack of trading, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in Shares will be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's "circuit breaker" rule.

Additionally, NYSE Arca Rule 8.201-E(g) sets forth certain restrictions on ETP Holders acting as registered Market Makers in the Shares to facilitate surveillance. Under NYSE Arca Rule 8.201-E(g), an ETP Holder acting as a registered Market Maker in the Shares is required to

⁴⁹ As the Exchange states, Reuters and Bloomberg, for example, provide at no charge on their websites delayed information regarding the spot price of gold and last sale prices of gold futures, as well as information about news and developments in the gold market. Reuters and Bloomberg also offer a professional service to subscribers for a fee that provides information on gold prices directly from market participants. Complete real-time data for gold futures and options prices traded on the COMEX are available by subscription from Reuters and Bloomberg. There are a variety of other public websites providing information on gold, ranging from those specializing in precious metals to sites maintained by major newspapers.

provide the Exchange with information relating to its trading in the underlying gold, related futures or options on futures, or any other related derivatives. Commentary .04 of NYSE Arca Rule 11.3-E requires an ETP Holder acting as a registered Market Maker, and its affiliates, in the Shares to establish, maintain and enforce written policies and procedures reasonably designed to prevent the misuse of any material nonpublic information with respect to such products, any components of the related products, any physical asset or commodity underlying the product, applicable currencies, underlying indexes, related futures or options on futures, and any related derivative instruments (including the Shares).⁵⁰

Moreover, the Commission concludes that the proposal is reasonably designed to mitigate the Shares' susceptibility to manipulation and misuse of nonpublic information in trading in the Shares, consistent with Section 6(b)(5) of the Act,⁵¹ because the Shares will be subject to the Exchange's and other rules below. Specifically:

- (1) The Trust will be subject to the criteria in NYSE Arca Rule 8.201-E(e) for initial and continued listing of the Shares.
- (2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. Trading in the Shares on the Exchange will occur in accordance with NYSE Arca Rule 7.34-E(a).
- (3) The Exchange deems the Shares to be equity securities, thus rendering trading in the Trust subject to the Exchange's existing rules governing the trading of equity securities.

⁵⁰ The Exchange confirms that it has regulatory jurisdiction over its ETP Holders and their associated persons, which include any person or entity controlling an ETP Holder. A subsidiary or affiliate of an ETP Holder that does business only in commodities or futures contracts would not be subject to Exchange jurisdiction, but the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.

⁵¹ 15 U.S.C. 78f(b)(5).

- (4) Trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.⁵² The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange. These surveillances generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.
- (5) The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.
- (6) Pursuant to NYSE Arca Rule 8.201-E(g), the Exchange is able to obtain information regarding trading in the Shares and the underlying gold, gold futures contracts, options on gold futures or any other gold derivatives through ETP Holders acting as

⁵² FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

registered Market Makers, in connection with such ETP Holders' proprietary or customer trades through ETP Holders which they effect on any relevant market.

- (7) The Exchange has a general policy prohibiting the distribution of material, non-public information by its employees.
- (8) Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (a) the procedures for purchases and redemptions of Shares in Creation Units (including noting that Shares are not individually redeemable); (b) NYSE Arca Rule 9.2-E(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (c) how information regarding the IIV is disseminated; (d) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (e) the possibility that trading spreads and the premium or discount on the Shares may widen as a result of reduced liquidity of gold trading during the Core and Late Trading Sessions after the close of the major world gold markets; and (f) trading information. The Exchange states that investors purchasing Shares directly from the Trust will receive a prospectus. ETP Holders purchasing Shares from the Trust for resale to investors will deliver a prospectus to such investors. In addition, the Information Bulletin will reference that the Trust is subject to various fees and expenses as will be described in the Registration Statement. The Information Bulletin will also reference the fact that there is no regulated source of last sale information regarding physical gold, that the Commission has no jurisdiction over the trading of gold as a physical commodity, and that the CFTC has regulatory jurisdiction over the trading of gold futures contracts and options on gold futures

contracts. The Information Bulletin will also discuss any relief, if granted, by the Commission or the staff from any rules under the Act.

- (9) A minimum of 100,000 Shares will be required to be outstanding at the start of trading.

In addition, pursuant to Commentary .04 of NYSE Arca Rule 8.201-E, all statements and representations made in this filing regarding (a) the description of the portfolio or reference assets, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in this rule filing shall constitute continued listing requirements for listing the Shares of the Trust on the Exchange.

The issuer must notify the Exchange of any failure by the Trust to comply with the continued listing requirements. Pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor⁵³ for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5-E(m).

Accordingly, for the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act⁵⁴ and the rules and regulations thereunder applicable to a national securities exchange.

⁵³ The Commission notes that certain proposals for the listing and trading of exchange-traded products include a representation that the exchange will “surveil” for compliance with the continued listing requirements. See, e.g., Securities Exchange Act Release No. 77499 (April 1, 2016), 81 FR 20428, 20432 (April 7, 2016) (SR-BATS-2016-04). In the context of this representation, it is the Commission’s view that “monitor” and “surveil” both mean ongoing oversight of compliance with the continued listing requirements. Therefore, the Commission does not view “monitor” as a more or less stringent obligation than “surveil” with respect to the continued listing requirements.

⁵⁴ 15 U.S.C. 78f(b)(5).

IV. Solicitation of Comments on the Proposed Rule Change, as Modified by Amendment No. 1

Interested persons are invited to submit written views, data, and arguments concerning whether the proposed rule change, as modified by Amendment No. 1, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSEArca-2021-65 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEArca-2021-65. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to

make available publicly. All submissions should refer to File Number SR-NYSEArca-2021-65 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

V. Accelerated Approval of the Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice of the filing of Amendment No. 1 in the Federal Register. As stated above, among other things, Amendment No. 1 to the proposed rule change went into greater detail with respect to characteristics of unallocated gold, Sprott ESG Approved Gold, and ESG Criteria, as well as valuation of the Trust's gold. Amendment No. 1 explained how Sprott ESG Approved Gold will be created for the Trust, as well as the process of the exchange or conversion of the types of gold held by the Trust, and how this occurs during creations and redemptions. Further, Amendment No. 1 represented that there is no separate market for Sprott ESG Approved Gold, there is no industry standard for ESG factors that apply to gold production and the value of the gold held by the Trust, whether allocated Sprott ESG Approved Gold or unallocated gold, will be determined by the LBMA Gold Price PM. Amendment No. 1 made additional representations, including regarding the Information Bulletin. Finally, Amendment No. 1 provided clarifications and technical edits to the proposed rule change. These changes and additional information in Amendment No. 1 assist the Commission in evaluating the Exchange's proposal and in determining that it is consistent with the Act. The Commission believes that such changes and additional information do not raise unique or novel regulatory issues under the Act. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,⁵⁵ to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

VI. Conclusion

⁵⁵ 15 U.S.C. 78s(b)(2).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁵⁶ that the proposed rule change (SR-NYSEArca-2021-65), as modified by Amendment No. 1, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵⁷

J. Matthew DeLesDernier,

Assistant Secretary.

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⁵⁶ Id.

⁵⁷ 17 CFR 200.30-3(a)(12).